



BILL NO. 84

Government Bill

*1st Session, 60th General Assembly
Nova Scotia
55 Elizabeth II, 2006*

An Act Respecting the Municipal Taxation of Wind Turbine Facilities

CHAPTER 22
ACTS OF 2006

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 23, 2006**

The Honourable Jamie Muir
Minister of Service Nova Scotia and Municipal Relations

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*



**An Act Respecting
the Municipal Taxation
of Wind Turbine Facilities**

Be it enacted by the Governor and Assembly as follows:

- 1 This Act may be cited as the *Wind Turbine Facilities Municipal Taxation Act*.
 - 2 (1) In this Act,
 - (a) "commissioned" means having been
 - (i) electrically connected to the Nova Scotia Power Incorporated grid or, where not connected to the grid, connected directly to a power consumer, and
 - (ii) in continuous operation for at least twenty-four hours;
 - (b) "existing agreement" means an agreement with Nova Scotia Power Incorporated to sell electricity produced by a wind turbine facility to Nova Scotia Power Incorporated, that has been signed on or before March 31, 2006, and of which the original term, without any extension, has not expired;
 - (c) "nameplate capacity" of a wind turbine generator at any given time means its capacity to produce electricity commissioned on a date at least six months before the given time;
 - (d) "total nameplate capacity" of a wind turbine facility means the total of the nameplate capacity of all the wind turbine generators comprising the facility;
 - (e) "wind turbine facility" means one or more wind turbine generators located together and owned by the same person and includes
 - (i) all interconnection equipment, devices and related structures connected to the wind turbine generator or generators, and
 - (ii) all cables, equipment, devices and structures, and all things ancillary to them, that
 - (A) connect the wind turbine generator or generators to an electricity grid or to a facility that directly consumes the electricity produced by the wind turbine generator or generators,
 - (B) facilitate the transmission of electrical energy from the generator or generators to the grid or facility, and
 - (C) where applicable, facilitate voltage transformation before ultimate delivery of any electrical energy to the grid or facility,
- including cable collection systems, whether above or below grade, and their conduits, switchgear equipment and devices, submarine cables, transmission lines, whether above or below grade, poles used to support transmission lines or cable collection systems, the complete and entire substation and all components and infrastructure contained in it including an electrical transformer, protection

and isolation devices, switches, metering and monitoring equipment, pads, or fencing,

but does not include any improvements to land due to road construction or improvement, or buildings, whether or not the buildings are used to house any part of the interconnection equipment;

(f) "wind turbine generator" includes all of its components and, without limiting the generality of the foregoing, includes its foundation and all things above and attached or connected to the foundation, whether directly or indirectly, including tower sections and their contents, the nacelle and its contents, the rotor-hub and blades, and any external pad-mounted transformer used only for the wind turbine generator.

(2) A wind turbine generator built on or before March 31, 2005, is deemed to have been commissioned on September 1, 2005.

3 (1) This Act applies to wind turbine facilities with respect to

(a) the 2005-06 and subsequent municipal taxation years; or

(b) notwithstanding the *Nova Scotia Power Privatization Act*, where the facilities are owned by Nova Scotia Power Incorporated, the 2006-07 and subsequent municipal taxation years.

(2) Where wind turbine facilities are owned by Nova Scotia Power Incorporated, this Act only applies with respect to nameplate capacity commissioned on or after April 1, 2006

4 (1) Notwithstanding the *Assessment Act*, the *Municipal Government Act* or any other enactment, a wind turbine facility is exempt from all taxes based on assessment.

(2) For greater certainty, land on which a wind turbine facility is situate shall be taxed pursuant to the *Assessment Act*, the *Municipal Government Act* and any other applicable enactment except as provided in Section 7.

5 (1) This Section applies to wind turbine facilities with a total nameplate capacity of more than 100 kilowatts.

(2) The owner of a wind turbine facility is liable for the taxes under this Act with respect to the facility, whether or not the owner of the facility is the owner of the land on which the facility is situate.

(3) A wind turbine facility is liable to municipal taxation in an annual amount equal to total nameplate capacity of the facility in megawatts, including fractions of a megawatt, multiplied by the wind turbine facility tax rate.

(4) In the first municipal taxation year in which a wind turbine facility is taxed or in any municipal taxation year in which additional nameplate capacity is added to a wind turbine facility, the taxes on the initial or additional nameplate capacity, as the case may be, shall be pro-rated for the number of days remaining in the municipal taxation year.

- (5) For the first municipal taxation year in which a wind turbine facility is taxed,
- (a) where it is either the 2005-06 or 2006-07 municipal taxation year, the wind turbine facility tax rate is \$5,500.00 per megawatt; or
 - (b) where it is the 2007-08 or a subsequent municipal taxation year, the wind turbine facility tax rate is \$5,500.00 per megawatt plus a percentage of \$5,500.00 equal to the percentage increase in the Consumer Price Index for Canada at the end of the calendar year ending in the immediately preceding municipal taxation year relative to the Consumer Price Index for Canada at the end of the 2005 calendar year.

(6) Where in the first municipal taxation year in which a wind turbine facility is taxed the taxes on the initial nameplate capacity are for only part of the municipal taxation year, the tax is the same for the second municipal taxation year.

(7) For each municipal taxation year after the first municipal taxation year in which taxes are payable with respect to the wind turbine facility for the whole municipal taxation year, the wind turbine facility tax rate is increased by one per cent of the rate for the previous municipal taxation year.

(8) Where a wind turbine generator is dismantled during a municipal taxation year, the taxes are prorated for the number of days during which the generator was not dismantled.

(9) Where the capacity of a wind turbine generator to produce electricity is reduced but the wind turbine generator is not dismantled, the nameplate capacity of the generator is deemed to be unchanged.

6 (1) Notwithstanding subsection 5(5), where there is an existing agreement with Nova Scotia Power Incorporated with respect to a wind turbine facility with a total nameplate capacity of more than 100 kilowatts, the wind turbine facility tax rate for the first municipal taxation year is \$4,500.00 per megawatt of the total nameplate capacity of the wind turbine facility to the extent that the total nameplate capacity does not exceed the capacity necessary to produce all the electricity that may be sold to Nova Scotia Power Incorporated pursuant to the agreement.

(2) For greater certainty, to the extent that the total nameplate capacity exceeds the capacity necessary to produce all the electricity that may be sold to Nova Scotia Power Incorporated pursuant to the agreement, it is taxed pursuant to Section 5.

(3) When an existing agreement expires, the wind turbine tax rate, with respect to nameplate capacity to which the rate in subsection (1) applies, is \$5,500.00 plus one per cent for each municipal taxation year since the 2006-07 municipal taxation year, compounded annually.

7 Notwithstanding the *Nova Scotia Power Privatization Act*, that Act does not apply to land acquired by Nova Scotia Power Incorporated on or after April 1, 2006, and used for a wind turbine facility, whether or not the facility is subsequently dismantled or removed and, for greater certainty, the land shall be taxed based on assessment.

8 (1) Where a wind turbine facility crosses municipal boundaries and so is located in two or more municipalities, the taxes under this Act are to be shared by the municipalities based

on the proportion of the construction costs of the portion of the facility that is in each municipality.

(2) The Director of Assessment shall determine the percentage to be received by each municipality and the Director's decision is final.

9 In each municipal taxation year, to a maximum of twenty years, commencing April 1, 2005, the Minister of Energy shall pay to municipalities a grant equal to the amount by which the taxes payable pursuant to Section 5 are reduced by Section 6.

10 Notwithstanding the *Assessment Act*, the *Municipal Grants Act* or any other enactment, for the purpose of the calculation of uniform assessment pursuant to Section 14 of the *Municipal Grants Act*, the capitalized value of taxes paid pursuant to this Act shall be used in place of taxable assessment.

11 Section 519 of the *Municipal Government Act* does not apply to this Act.

12 (1) The Governor in Council may make regulations

(a) defining any word or expression used but not defined in this Act;

(b) the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) A regulation made pursuant to subsection (1) may be made retroactive to the date set out in the regulation.

(3) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

13 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
